

TRUST AGREEMENT
(Marine Facilities)

This Trust Agreement dated _____, (the "Agreement"), is by and between _____,
[name of owner or operator]
("Trustor"), and [insert " _____",
[name of corporate trustee]
incorporated in the State of _____", or
" _____, a national (or state)
[name of bank]
bank"] ("Trustee"), and the Administrator, Office of Spill
Prevention and Response, Department of Fish and Game, State of
California, the beneficiary of this Agreement (hereinafter
referred to as the "Administrator").

1. Recitals

1.1 Whereas, the State of California has enacted the
Lempert-Keene-Seastrand Oil Spill Prevention and Response Act
(Government Code Section 8670.1, et seq.) (the "Act") and
pursuant to Government Code Section 8670.4, the Governor of the
State of California has appointed an Administrator for oil spill
response.

1.2 Whereas, the Act requires that no person may
operate a marine facility (as defined) unless the owner or
operator has obtained a certificate of financial responsibility
for the facility from the Administrator.

The Act also sets forth the requirement that certain
levels of financial ability to pay for damages in the event of an
oil spill be demonstrated. Financial responsibility may be
demonstrated by evidence of insurance, surety bond, guaranty,
letter of credit, qualifications as a self-insurer, or any
combination thereof, or other evidence of financial
responsibility.

1.3 Whereas, Regulations promulgated by the
Administrator provide that applicants utilizing surety bonds,
guarantees, or letters of credit, to demonstrate evidence of
financial responsibility shall establish a standby trust fund to
provide assurance that funds will be available when needed to pay
for cleanup and damages resulting from oil spilled or discharged

into California marine waters. Under the terms of the surety bond, guaranty, or the letter of credit, all payments thereunder shall be deposited by the provider of financial assurance directly into the standby trust fund (the "Fund") in accordance with the Administrator's instructions (Title 14, California Code of Regulations, Subdivision 4, Section 795(c)(5), Section 795(d)(3), and Section 795(e)(6)) (the "Regulations").

1.4 Whereas, Trustor, either directly or indirectly through various operating subsidiaries, owns and/or operates marine facilities (as defined in the Act).

1.5 Whereas, Trustor has elected to establish a [insert "surety bond," "letter of credit," or "guaranty"] in a form acceptable to the Administrator, to provide all or part of such financial assurance for the marine facilities referred to herein and is required to establish a Fund able to accept payments from the instrument. The [insert "surety bond," "letter of credit," or "guaranty"] established by the Trustor provides that it is a condition of such obligation that if Trustor shall pay or cause to be paid to claimants all sum or sums for which Trustor may be held legally liable under the Act, the obligation is void, otherwise it shall remain in full force and effect.

1.6 Whereas, the purpose of this Agreement is to establish the Fund as set forth by the Regulations for the receipt of payments made under the [insert "surety bond," "letter of credit," or "guaranty"].

1.7 Whereas, the Trustor, acting through its duly authorized officers, has selected the Trustee to be the Trustee under this Agreement, and the Trustee is willing to act as Trustee.

1.8 In consideration of the mutual benefits to Trustor, Trustee, and the Administrator, the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Trustor, Trustee and the Administrator agree as follows:

2. Definitions

As used in this Agreement:

2.1 The "Trustor" means the owner or operator who enters into this Agreement and any successors or assigns of the Trustor.

2.2 The "Trustee" means the Trustee who enters into this Agreement and any successor Trustee. The Trustee hereby agrees that any action arising from this Agreement shall be heard in State or Federal court located in the State of California interpreted under the laws of the State of California, and that the Trustee submits to the jurisdiction of such courts. The Trustee agrees in accepting the responsibilities as Trustee to provide an accounting and be responsive to other inquiries concerning the Agreement from the Administrator or his or her designated representatives. The Administrator shall retain the right to approve any successor Trustee nominated or appointed for the Trust Agreement, including, but not limited to, a court appointed Trustee.

2.3 The "Administrator" means the Administrator for oil spill response appointed by the Governor of the State of California pursuant to Government Code Section 8670.4.

3. Identification of the Financial Assurance Mechanism

3.1 This Agreement pertains to the [insert "surety bond," "letter of credit," or "guaranty"] from which the Fund is established to receive payments. Attached hereto as Exhibit A and incorporated herein by this reference is a copy of the [insert "surety bond," "letter of credit," or "guaranty"].

4. Establishment of The Fund

4.1 The Trustor and the Trustee hereby establish a trust fund, the "Fund", for the benefit of the Administrator. Trustor and Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established as a standby to receive payments and initially shall not consist of any property. Payments made by the provider of financial assurance pursuant to the Administrator's instruction are transferred to the Trustee and are referred to as the assets of the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to

this Agreement.

4.2 The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect any sums from the Trustor or provider of financial assurance.

4.3 Nothing contained in this Agreement shall be construed as a waiver by Trustor of any defenses to liability it may have under the Act or other applicable law.

5. Duties of Trustee

5.1 The Trustee shall make payments from the Fund as the Administrator shall direct, in writing, to provide for the payment of cleanup and damages resulting from a spill or discharge of oil in California marine waters for which Trustor may be legally liable under the Act. Trustee shall perform the services and carry out the responsibilities specifically enumerated and described below, and shall perform such additional services and periodically carry out such additional responsibilities designated by Trustor which will reasonably be within the scope of the responsibilities and duties described below to the extent acceptable to the Administrator and Trustee.

5.2 The Administrator shall periodically advise Trustee in writing of claims made by the Administrator against the [insert provider of financial assurance], and Trustee shall notify Trustor and the Administrator of receipt of any payments by it from the provider of financial assurance pursuant to the terms of the [insert "surety bond," "letter of credit," or "guaranty"] on account of claims made by the Administrator.

5.3 The Administrator agrees to send to Trustee and to Trustor a copy of each claim it renders to the [insert name of provider of financial assurance] under the [insert "surety bond," "letter of credit," or "guaranty"] at the time it renders such claim. Trustee shall immediately notify Trustor and the Administrator in the event that Trustee does not receive payment in full of each such claim from the [insert provider of financial assurance] within ten (10) days of the date of such claim.

5.4 When the [insert name of provider of financial assurance] makes a payment to Trustee pursuant to the terms of the [insert "surety bond," "letter of credit," or "guaranty"], Trustee shall promptly cash the check or otherwise convert the form of payment to good funds and place such assets in the Fund, a segregated trust account entitled ["insert name of account"]. Thereafter, Trustee shall hold the assets of the Fund until disbursed pursuant to the terms of this Agreement or refunded to the Trustor, as directed in writing by the Administrator, pursuant to the laws of the State of California. Upon refund such funds shall no longer constitute part of the Fund as defined herein.

6. Payments Comprising the Fund

6.1 Payments made to the Trustee for the Fund shall consist of cash and/or securities acceptable to the Administrator. Securities acceptable to the Administrator are those delineated in Government Code Section 8670.53.7. The decision of the Administrator as to whether the securities meet the requirements of Government Code Section 8670.53.7 is final.

7. Trustee Management

7.1 Trustee is authorized to invest any and all assets of the Fund in such investment as Trustor may periodically recommend subject to the Administrator's approval. Trustee is initially directed to invest the assets in the Fund in money market funds rated "AAA" or commercial paper rated "A-1" by Standard and Poors or money market funds or commercial paper rated "P-1" by Moody's Investors Services. Each investment by Trustee shall be available without premium or penalty on no more than thirty (30) days notice. All income and proceeds of any such investment shall be held by Trustee in the Fund subject to the terms of this Agreement.

7.2 If the Administrator determines Trustee has sufficient assets in the Fund to meet the requirements of the Act, then, at the written direction of the Administrator, the interest earned and paid out on such investments shall be remitted to Trustor by wire transfer or interbank transfer to [insert name of bank] for the account of [insert name of

account], in accordance with the following instructions.

(Name of Trustor)
(c/o - Name of bank, address,
and account number).

Trustor shall advise Trustee in writing (with a copy to the Administrator) of any change in the identity of such bank or bank account.

7.3 Monthly, and at such other times as Trustor or the Administrator may reasonably request, Trustee shall provide Trustor and Administrator with a statement of all investments of assets in the Fund, and a statement of all transactions with respect to the Fund (including receipts, investments and disbursements and interest earned) not previously reported.

8. Taxes and Expenses

8.1 [insert "Trustor shall provide Trustee with its employer identification number as assigned by the Internal Revenue Service. All interest or other income earned on the Account shall be taxed to Trustor. Additionally, Trustor shall complete and return to Trustee any and all tax forms or reports required to be maintained or obtained by Trustee on account of the Fund." or "All taxes of any kind that may be assessed or levied against or in respect to the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund."]

8.2 All other expenses incurred by the Trustee in connection with the administration of this Trust, including reasonable fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Trustor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

9. Trustee Compensation

9.1 The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing with the Trustor.

10. Limitation on Duties of Trustee

The duties and responsibilities of Trustee under this Agreement shall be subject to the following:

10.1 Trustor covenants and agrees to indemnify and hold Trustee harmless against all liability for tax withholding and/or reporting for any payments made by Trustee pursuant to this Agreement. Such indemnity shall survive the termination or discharge of this Agreement or resignation of Trustee.

10.2 Trustee shall have no duties or obligations except those expressly set forth in this Agreement. Trustee shall have no responsibilities or liability to any of the parties hereto or their successors for any action taken by it in good faith upon receipt of any instrument or other writing believed by it to be properly signed or presented. In case any property deposited under this Agreement shall be attached, garnished or levied upon pursuant to an order of court or other authority having jurisdiction, or the delivery thereof shall be stayed or enjoined by an order of court, or any order, judgment or decree shall be made or entered by any court affecting such property, or any part thereof, Trustee shall obey and comply with all final writs, orders, judgments or decrees so entered or issued by any court, without the necessity of inquiry whether such court had jurisdiction; and, in case Trustee obeys or complies with any such writ, order, judgment or decree, it shall be held harmless and indemnified by Trustor by reason of such compliance. Upon receipt of notice of an writ, order, judgment or decree, Trustee will transmit copies of said writ and other process or pleading to all parties hereto.

10.3 Trustee shall have no obligation to make any payment or disbursement of any type pursuant hereto or to incur any financial liability in the performance of its duties hereunder unless there shall have been deposited or accrued with Trustee sufficient funds therefor.

10.4 The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration in this Trust, or in carrying out any directions by the Trustor or the Administrator issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Trustor, from and against any personal

liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Trustor fails to provide such defense.

10.5 Trustee shall not be liable for any error or judgment made in good faith by an officer of Trustee, unless it shall be proved that Trustee was grossly negligent or acted intentionally in bad faith. Trustee shall have no liability for any action or omission to act with respect to its duties under this Agreement undertaken in good faith acting in reliance upon the advice of its independent counsel.

10.6 The Trustee shall not be liable for any loss, or expense arising out of or in connection with the performance of its duties hereunder, except that Trustee shall not be indemnified or held harmless against any such loss, liability or expense arising out of its gross negligence or wilful misconduct. Trustee shall be under no obligation to institute or defend any action, suit or legal proceeding in connection herewith, unless first indemnified by Trustor and held harmless to its satisfaction in accordance with the foregoing. Such indemnity shall survive the termination or discharge of this Agreement or resignation of Trustee.

11. Assignments

Trustor and the Administrator have relied on the reputation, financial condition and other attributes of the Trustee in selecting Trustee to act herein. As a consequence, Trustee shall have no right, power or authority to assign this Agreement, or any portion thereof, or subcontract its services, or any monies due or to become due hereunder, either voluntarily, involuntarily or by operation of law, without the prior written consent of Trustor and the Administrator.

12. Resignation and Removal of Trustee

12.1 Trustee may resign after thirty (30) days following written notice to Trustor and the Administrator. Similarly, Trustee may be removed and replaced after thirty (30) days following written notice to Trustee and the Administrator by Trustor. In either event, the duties of Trustee shall terminate

thirty (30) days after the day of such notice (or as of such earlier date as may be mutually agreeable to Trustor, Administrator, and Trustee), and Trustee shall deliver the assets then comprising the Fund to a successor Trustee appointed by Trustor and agreed to by the Administrator, as evidenced by a written notice executed by Trustor and the Administrator filed with Trustee.

12.2 If Trustor shall have failed to appoint a successor Trustee prior to the expiration of thirty (30) days following the date of such notice of such resignation or removal, Trustee shall deliver to the Trustor the entire balance of the Fund and shall be discharged from all responsibility as Trustee hereunder. Trustor agrees to obtain a new Trustee within thirty (30) days upon the termination or resignation of the current Trustee, and agrees that selection of a new Trustee is subject to the approval of the Administrator. Any objection to the selection of a successor Trustee shall be given in writing within five (5) days after Trustor identifies the proposed new Trustee. During any period when no Trustee has been hired by Trustor, Trustor shall enter into an interim agreement with the Administrator, in form and substance satisfactory to Trustor and the Administrator, pursuant to which Trustor shall perform the primary functions of Trustee hereunder.

12.3 Upon acknowledgement by any successor Trustee appointed in accordance with the foregoing provisions of this section, of the receipt of the funds then comprising the Fund, Trustee shall be fully released and relieved of all duties, responsibilities and obligations under this Agreement.

13. Amendment of Agreement

This Agreement may be amended by an instrument in writing executed by the Trustor, the Trustee, and the Administrator, or by the Trustee and the Administrator if the Trustor ceases to exist.

14. Irrevocability and Termination

Subject to the right of the parties to amend this Agreement as provided herein, this Trust shall be irrevocable and shall continue until terminated. This Agreement and the Fund

hereunder may be terminated at any time by and upon the receipt by Trustee of a written notice of termination executed by Trustor and the Administrator directing the disposition of the assets then constituting the Fund which are held by Trustee under and pursuant to this Agreement, and the distribution by Trustee of all such assets in accordance with such written instructions. Upon termination of this Agreement, Trustee shall be fully released and relieved of all duties, responsibilities and obligations under this Agreement.

15. Notices, Instructions and Directions

15.1 All notices, instructions and directions to be given by Trustor hereunder shall be deemed to be duly authorized if signed on behalf of Trustor by any officer empowered by the Board of Directors, Chief Executive Officer or any person duly empowered by Trustor, in writing, to legally bind Trustor to this Agreement. All notices, instructions and directions to be given by the Administrator shall be deemed to be duly authorized if signed on behalf of the Administrator, by the Administrator's designee as such designation is evidenced in writing. A copy of any notice, instruction or direction hereunder given by any party hereto to the other shall also be given to all other parties.

15.2 All notices, instructions, directions or other documents to be given or made hereunder shall be in writing and shall be telegraphed, cabled, telexed, delivered, sent by facsimile transmission or express courier service or sent by certified mail (return receipt requested), postage prepaid, addressed as follows:

Trustor: _____

Beneficiary: Administrator

Office of Spill Prevention
and Response
Department of Fish and Game
State of California
P.O. Box 944209
Sacramento, California 94244-2090

Trustee:

Attention: _____

Any such notice or other communication if telegraphed, cabled or telexed shall be deemed to have been given on the business day following dispatch thereof; if sent by express courier service, shall be deemed to have been given on the next business day; if personally delivered or sent by facsimile transmission, shall be deemed to have been given on the day of such delivery or transmission; and, if sent by mail, shall be deemed to have been given on the third (3rd) business day after the mailing thereof. Any party may change the address to which and the person to whom such notices, instructions or directions are to be given by giving notice of its new address (or addresses) to the other parties as provided in this section.

16. Miscellaneous

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors without the execution of any additional instrument or any other act. This Agreement, together with the applicable provisions of the [insert "surety bond," "letter of credit," or "guaranty"] constitute the final, exclusive and complete statement of the agreement of the parties with respect to the subject matter hereof. This Agreement may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

17. Severability

If any term or provision of this Agreement is held to be invalid or unenforceable under the laws of any jurisdiction, the validity of the remaining terms and provisions of this Agreement shall not be affected thereby.

18. Choice of Law

This Agreement shall be administered, construed, and enforced according to the laws of the State of California.

19. Interpretation

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized and then corporate seals (if applicable) to be hereunto affixed and attested as of this _____ day of _____, 19 ____.

TRUSTEE

By: -----

Ti t l e: -----

TRUSTOR

By: -----

Ti t l e: -----

BENEFI CI ARY

ADM NI STRATOR
OFFICE OF SPI LL PREVENTION
AND RESPONSE
DEPARTMENT OF FI SH AND GAME
STATE OF CALI FORNI A

ACKNOWLEDGMENT

State of _____)

County of _____)

On _____, before me _____,
date name, title of officer - e.g., "Jane Doe, Notary Public"

personally appeared _____,
name of signer
[personally known to me] - or - [proved to me on the basis of satisfactory evidence] to be the person whose name is subscribed to this instrument and acknowledged to me that he/she executed it in his/her authorized capacity, and that by his/her signature on this instrument the person, or entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

[Notarial Seal]

signature of notary

Notary Public for the State of _____

My commission expires: _____, 19__

Acknowledgment by Bank or Other Corporate Trustee

State of _____)

County of _____)

On _____, before me _____,
date name, title of officer - e.g., "Jane Doe, Notary Public"

personally appeared _____,
name of signer
[personally known to me] - or - [proved to me on the basis of satisfactory evidence] to be the person whose name is subscribed to this instrument and acknowledged to me that he/she executed it in his/her authorized capacity, and that by his/her signature on this instrument the person, or entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

[Notarial Seal]

signature of notary

Notary Public for the State of _____

My commission expires: _____, 19____